IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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FRIDAY, THE FIFTH DAY OF AUGUST

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.17333 OF 2005

Between:

Khaja Sharifuddin & Anr. … Petitioners

Versus

The District Collector,

Medak district & Anr. … Respondents

Counsel for the Petitioner: Mr.C.DAMODAR REDDY

Counsel for the Respondents: GOVT.PLEADER FOR REVENUE

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O R D E R :

This writ petition is filed seeking mandamus on the ground that the second respondent has not considered the application of the petitioners dated 10-3-2004 seeking mutation of the wet lands in survey no. 235 in an extent of Ac:0-18 guntas, survey no.236 in an extent of Ac:0-19 guntas, survey no. 345 in an extent of Ac:1-06 guntas and dry lands in survey no. 359 in an extent of Acs:0-19 guntas and survey no.401 in an extent of Acs:2-05 guntas; admeasuring Acs:4-27 guntas respectively

situate at Manoharabad village of Toopran Revenue Mandal, Medak district, in their favour, pursuant to registered sale deed dated 06-11-2003 under Document No.5033/03 registered at the Office of the Sub-Registrar, Gajwel, from the original owners, Smt. Shareefa Bee and Smt.Jahangir Bee, who are the respondents 1 and 2 and who got the same under concurrent judgment and decree dated 11-7-2002 passed in SA.No.511 of 1991 on the file of this Court.

The case of the petitioners is that they have purchased the aforesaid lands from its original owners, namely; Smt. Shareefa Bee and Smt.Jhangir Bee, who got the same towards their share in pursuance of concurrent judgment and decree dated 11-7-2002 passed in SA.No.511 of 1991 on the file of this Court. After purchasing the said lands, the petitioners approached the second respondent seeking mutation and issuance of pattedar passbooks under section 4 (1) of the AP Rights in Lands and Pattedar Passbooks Act, 1971 read with Rule 27 (4) of AP Rights in Land and Pattedar Passbooks Rules, 1989. Thereupon the second respondent advised the petitioners to approach the first respondent for mutation of the same in their names and accordingly the petitioners have submitted an application dated 12-2-2004 before the first respondent and thereafter the first respondent after considering their representation issued Memo in I.DIS.No.D1/959/2004 dated 25-2-2004 to the petitioners directing them to approach the second respondent for the reliefs sought. In pursuance of the said memo, the petitioners have submitted a representation dated 10-3-2004 along with relevant copies of the said memo issued by the first respondent, judgment and decree dated 11-7-2002 passed in SA.No.511 of 1991 and sale deed. Since 10-3-2004 the second respondent has not considered the

representation of the petitioners.

The learned counsel for the petitioners submits that the vendors of the petitioners; namely, Smt.Shezadi Begum and Smt.Jhangir Bee are the joint family members and are entitled for partition of the lands in the said survey numbers and since the partition was not effected, their vendors have filed OS.No.68 of 1984 on the file of the Court of District Munsif, Gajwel seeking partition and separate possession of the plaint schedule properties therein and the learned District Munsif, Gajwel, on the basis of oral and documentary evidence placed on record, passed a preliminary decree for partition of the plaint schedule properties into two shares and put the plaintiffs in possession of their share. Aggrieved by the said judgment and decree, the defendants therein preferred AS.No.3 of 1989 on the file of the Court of Subordinate Judge, Siddipet. The learned Subordinate Judge, Siddipet on reappreciation of the oral and documentary evidence dismissed the appeal and confirmed the judgment and decree dated 30-3-199988 passed in OS.No.68 of 1984 on the file of the Court of District Munsif, Gajwel. Assailing the same, the appellants therein have filed SA.No.511 of 1991 before this court and this court was pleased to dismiss the above second appeal by a judgment dated 11-7-2002. Thereafter, the said lands were partitioned and separate possession was given and as such, the petitioners have purchased the lands fell to the share of their vendors, who are the plaintiffs in OS.No.68 of 1984.

While things stood thus, the second respondent has neither considered their application seeking mutation and issuance of pattedar passbooks under the ROR Act nor passed any order even after a lapse of one year. Therefore, the petitioners

filed the present writ petition.

The learned Govt.Pleader for Revenue submitted that the second respondent has to ascertain the facts and circumstances as submitted by the petitioners in their representation and further stated that if some time is granted the second respondent will consider the representation of the petitioners dated 10-3-2004 by issuing notice to the affected parties and further the second respondent has to follow due process of law before considering the request of the petitioners.

As can be seen from the record, it appears that the petitioners have purchased the wet lands in survey no. 235 in an extent of Ac:0-18 guntas, survey no.236 in an extent of Ac:0-19 guntas, survey no. 345 in an extent of Ac:1-06 guntas and dry lands in survey no. 359 in an extent of Acs:0-19 guntas and survey no.401 in an extent of Acs:2-05 guntas; admeasuring Acs:4-27 guntas respectively situate at Manoharabad village of Toopran Revenue Mandal, Medak district, in their favour, pursuant to registered sale deed dated 06-11-2003 under Document No.5033/03 registered at the Office of the Sub-Registrar, Gajwel, from the original owners, Smt. Shareefa Bee and Smt.Jahangir Bee, who are the respondents 1 and 2 and who got the same under concurrent judgment and decree dated 11-7-2002 passed in SA.No.511 of 1991 on the file of this Court. On perusal of copy of the judgment dated 11-7-2002 passed in SA.No.511 of 1991, it appears that it is an second appeal preferred against the judgment and decree dated 12-6-1991 passed in AS.No.3 of 1989 on the file of the Court of Subordinate Judge, Siddipet, Medak district, assailing the judgment and decree dated 30-3-1988 passed in OS.No.68 of 1984 on the file of the Court of District Munsif, Gajwel. The plaintiffs in OS.No.68 of 1984 are

the vendors of the petitioners herein, who filed a suit against the defendant, seeking for partition and separate possession of the plaint schedule land. OS.No.68 of 1984 was decreed in favour of the vendors of the petitioners, who are Smt.Shareefa Bee and Smt.Jahangir Bee. Aggrieved by the judgment and decree dated 30-3-1988 passed in OS.No.68 of 1984, the defendants therein filed AS.No.3 of 1989 on the file of the Court of Subordinate Judge, Siddipet. As the first appellant in AS.No.3 of 1989 died, the second appellant was brought on record as the legal heir. As can be seen from the record, Hajira Begum, the legal representative of Mohd.Yousuf is shown as third appellant in AS.No.3 of 1989 on the file of the Court of Subordinate Judge, Siddipet. But in SA.No.511 of 1991, she is not a necessary party to the second appeal.

After hearing the learned counsel for the petitioners as well as the learned Govt.Pleader and taking into consideration the facts and circumstances leading to the filing of this writ petition, the background of this writ petition has a long chequered history between the vendors of the petitioners herein and the defendant in the suit and any how the representation of the petitioners is pending consideration for the last more than one year and in those circumstances, I deem it appropriate to dispose of the writ petition at the admission stage, directing the second respondent to consider the representation of the petitioners dated 10-3-2004 seeking mutation of the wet lands in survey no. 235 in an extent of Ac:0-18 guntas; survey no.236 in an extent of Ac:0-19 guntas; survey no. 345 in an extent of Ac:1-06 guntas; and dry lands in survey no. 359 in an extent of Acs:0-19 guntas; and survey no.401 in an extent of Acs:2-05 guntas; admeasuring Acs:4-27 guntas respectively situate at

Manoharabad village of Toopran Revenue Mandal, Medak district, in their favour, pursuant to a registered sale deed dated 06-11-2003 under Document No.5033/03 registered at the Office of the Sub-Registrar, Gajwel, from the original owners, Smt.Shareefa Bee and Smt.Jahangir Bee, who are the respondents 1 and 2 and who got the same under concurrent judgment and decree dated 11-7-2002 passed in SA.No.511 of 1991 on the file of this Court and pass appropriate orders in accordance with law, for mutation and issuance of pattedar passbooks in favour of the petitioners. The above exercise of mutation and issuance of pattedar passbooks in favour of the petitioners shall be completed, positively within twelve weeks, from the date of receipt of a copy of this order.

With the above direction, the writ petition is accordingly disposed of at the admission stage. No costs.

AUGUST 05th, 2005. ---------- ----------

I s L. ELIPE DHARMA RAO , J.